

Free thesis about gender equality under saudi labour law and european labour law

[Religion](#), [Islam](#)



\n[[toc title="Table of Contents"](#)]\n

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1. [Introduction](#) \n \t
2. [Chapter One: What Kind of Equality Does Sharia Law Provide?](#) \n \t
3. [References](#) \n

\n[/toc]\n \n

Introduction

The Saudi labour market currently presents a series of impressive economic prospects for Saudi Arabia. Moves to improve the Saudi economy through diversification have since earmarked the necessity to raise the value of the Saudi labour market mainly through the improvement of their skills. Mainly possessing a petroleum-based economy bearing the ubiquitous label of being among the largest producers of oil in the world, Saudi Arabia recognizes the need to sustain its economic growth and development through means apart from a highly valuable yet depleting resource. The fact that diversification necessitates the departure from the usual skills involved in currently active industries presently challenges Saudi Arabia to educate and train its labour market into performing different undertakings required to learn more about, and excel in other industries. In the case of the Saudi oil industry, there is an understanding that massive returns of investment (ROI) could aid the cause of Saudi Arabia to diversity its economy. Yet, more importantly is the significance of attracting greater involvement on the part of citizens eligible to render labour in Saudi Arabia, most notably women. Gender comprises an inevitable issue in discussions involving the Saudi

labour market, as it understandably covers women amidst the heavily patriarchal society Saudi Arabia has. Findings marked by the Ideation Centre of Booz & Company pointed out that “ fewer than half” of the 8. 2 million people forming the Saudi labour market in 2007 consisted of Saudi citizens, with further 85. 6%of such a figure consisting of males. Such provides that with the remaining 14. 4% constituting females, one may empirically identify that there are not that many women within the working Saudi citizenry. Furthermore supporting data provided that the unemployment rate for female citizens in Saudi Arabia is at 26. 9%, an alarming rate considering that around one-fourth of said figure constitution constitute the equivalent unemployment rate for male Saudi citizens. Such provides insights on the relatively marginalized state of female Saudi citizens engaged in the labour market of Saudi Arabia, which may severely affect the need of the nation to provide highly competitive candidates for new jobs arising out of the diversification process, nominally known as the Saudization policy. Despite the daunting figures shown in the aforementioned, notable reforms enabling greater participation of female Saudi citizens in the labour market of Saudi Arabia have since started to emerge in recent history. The Ideation Centre of Booz & Company further emphasized that the participation rate of the foregoing for female Saudi citizens tripled in figures from 5. 4% to 14. 4% in 1992. Standing as an indication of strong opportunities for entry into the labour market of Saudi Arabia, female Saudi citizens have since grown greater inclination towards looking for vacant employment positions and engrossing themselves in work under their respective employers. Female Saudi citizens have since involved themselves in jobs within the field of

education – both under teaching and administrative divisions. Nevertheless, despite improvements shown in the foregoing, there remains the fact that the participation rate for all female citizens in the labour market of Saudi Arabia still stands lower compared to other nations in the Middle East, which includes the United Arab Emirates (UAE) enjoying a 59% participation rate for its female citizens and Kuwait at 42. 49%. Even Malaysia, a predominantly Islamic nation outside the Middle East, enjoys a participation rate of 46. 1% for the female portion of its labour market.

One may express that the relatively low participation rate of female Saudi citizens in the labour market of Saudi Arabia may meet further countenances to the growing trend of higher educational attainment. The Ideation Centre of Booz & Company noted that above 90% of female Saudi citizens in the labour market of Saudi Arabia are holders of university degrees and/or secondary qualifications. Around 57% of university graduates within Saudi Arabia in 2006 constitutes females. Such trends impose the remarkable premise that female Saudi citizens have since gained greater ground in terms of educational attainment, which in turn contributes constructively to the diversification agenda of Saudi Arabia for its economy. After all, skills formation emanate directly from education and greater educational attainment provides wider opportunities for more skills to form. However, it is notable to point out early on the reality that a university degree does not provide women in Saudi Arabia a guarantee for instant access to available positions in the Saudi labour market. Unemployment among female Saudi citizens, as explained by Deputy Minister for Labour Abdul Wahid Al-Humaid, does not directly translate to their lack of educational attainment. In fact, the

reverse is very much true – around 78.3% of unemployed female Saudi citizens have university degrees, while 76% of unemployed male Saudi citizens barely finished their secondary education.

The foregoing statistics clearly show that gender is a major factor to reckon when analysing the problem of female Saudi citizens in their involvement in the labour force of Saudi Arabia. It is therefore certain that there are substantial failures on the part of the Saudi government in terms of moulding the national educational system towards transforming female Saudi citizens as competitive participants in the labour force of Saudi Arabia, given current efforts to diversification. Such lack of initiatives have since curtailed the potential of female Saudi citizens to expand beyond traditional forms of employment such as teaching and other service-oriented industries, notwithstanding the fact that more than 1,000 of their unemployed counterparts hold doctorate degrees. The traditionally held view that women must stay at home to tend to domestic needs have since influenced the Saudi government against increasing their employment competitiveness of female Saudi citizens. Shortage of available jobs for particular degrees have greatly affected the employment prospects of female Saudi citizens in Saudi Arabia. For instance, 93% of female Saudi graduates who graduated in 2007 received degrees in the fields of humanities and education, yet their lack of opportunities on home soil sent many of them abroad. Although pastures new may engage female Saudi citizens to learn more skills relevant to their fields that may prove instrumental for the diversification agenda of Saudi Arabia, it also forbears many of them from ever returning to the nation to pursue their respective careers simply because there are not too many

available jobs for them. In effect, Middle Eastern neighbours such as Bahrain, Kuwait and Qatar have since benefited from the influx of skilled, knowledgeable and educated female Saudi citizens, most notably in the field of education.

Clearly, the lack of formidable employment opportunities suitable for the educational attainment of several educated female Saudi citizens underlines the graver situation suffered by their uneducated counterparts. Estimates from the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 2007 shows that over one million illiterate and uneducated female Saudi citizens have no access to the labour market of Saudi Arabia at all. With around 20.6% of female Saudi citizens above 15 years touted as illiterate and with only 3% of them involved in the labour market of Saudi Arabia, insufficient skills and educational attainment clearly stands as an aggravating factor. Furthermore, given the lack of family support suffered by illiterate and uneducated female Saudi citizens, there is an understanding that many of them suffer from social and economic exclusion. Another concern involves female Saudi citizens living in rural parts of Saudi Arabia, wherein greater social restrictions institutionalized by patriarchy prevail. The relatively greater suffering of female Saudi citizens in rural Saudi Arabia involves a compounding of severe lack of employment opportunities, insufficient access to education and gender-based social restrictions. Hail and the eastern regions of Saudi Arabia have since featured unemployment rates above 30% in 2007. Conservatism, particularly through strict adherence to Sharia law stating that females have the right to work but only in appropriate settings – those that do not involve having to interact with

men to avoid harassment, further contributes to the difficulties of female Saudi citizens, educated or not, in securing proper employment opportunities.

As mentioned previously, the prevailing principle of Sharia law authorizing females to gain employment subject to the proper surroundings thus legitimizes the need for gender segregation, which in turn affects the available kinds of employment available. Simply put, female Saudi citizens virtually have no access to jobs where their male counterparts thrive freely. Such has resulted to lesser opportunities for career development among female Saudi citizens, given that almost all of them gained employment in fields where there are no males involved. Both the public and private sectors, involving 95% and 5% of the total population of employed female Saudi citizens in 2007 respectively, featured limited forms of employment for women. Overall, the overarching patriarchal system operationalized through religion and laws and permeating in relevant aspects of employment entail many female Saudi citizens to suffer from inequality in terms of employment.

With the problem of gender equality in the Saudi labour market being obvious at this point, it thus makes sense to explore the extent of such trend in the aspect of wage or salary payments. Equal pay regardless of gender served as the unequivocal message of the United Nations Equal Remuneration Convention, which in turn appears to clash with Sharia law on the “ proper setting” issue, which in turn imposes limitations on employment opportunities for female Saudi citizens. Using European labour law as a reform model, this study seeks to clarify issues on the kind of equality Sharia

law is advocating for female Saudi citizens in the labour market of Saudi Arabia in terms of pay. Is Sharia law a hindrance for the cause of providing female Saudi citizens with pay equal to their male counterparts? What dynamics induce female Saudi citizens to receive unequal pay and how could those be resolved? This study, given the foregoing questions, both serve as an analytical and remedial endeavour on the given issue with the application of gender-equal European labour law. Drastic reforms against Sharia law derived from European labour law may prove beneficial to improving the status of female Saudi citizens employed in Saudi Arabia.

Chapter One: What Kind of Equality Does Sharia Law Provide?

Saudi Arabia, being an Islamic nation, features the prevalence of Sharia law in virtually all aspects of life within it, specifically in terms of the rights of female Saudi citizens. In terms of labour issues, Sharia law has its formal say on the employment standards of female Saudi citizens in Saudi Arabia. Such noted that while women have the guarantee of access to work, it is important for them to “work in an appropriate environment - that is, not mixing with men or being exposed to harassment”, as noted in the Ideation Centre of Booz & Company. Conservatively, traditional expectations for female Saudi residents prevail in Saudi Arabia, given the highly patriarchal society it has. Yet, the guarantee of access to work stated under Sharia law provides the view that female Saudi citizens can actively engage in work as well, yet such has a severe limitation in the form of gender segregation. The need to protect women from harassment arises as a necessity for segregating female Saudi citizens from their male counterparts – a

consequence the Sharia law implicitly deems as essential to their well-being. Yet, the underlying oppression therein thoroughly negates the supposed benefit Sharia law intends for women in the aspect of employment. The compounding effects of social pressure insisting on the traditional role of female Saudi citizens as homemakers and the consequent lack of employment opportunities for them in Saudi Arabia brought forth by gender segregation and the sheer shortage of jobs for their degrees, mostly in education or humanities, add to the negativity introduced by Sharia law. In turn, income earnings have become unequal between female and male Saudi citizens, with the latter being more privileged given the relative absence of restrictions under Sharia law against them.

The importance of taking gender equality into context proved pivotal to the study conducted by Jawad Syed. Equal employment opportunity (EEO) in Islamic societies may impart greater understanding through a contextually defined perspective. Islamic discourses on employment is understandably crucial to shaping how gender equality is defined under Sharia law, as it provides a guarantee for female Saudi citizens to engage in work providing the need for appropriateness via gender segregation. Clearly, differences in gender ideology under Sharia law prevail, given its highly patriarchal setup involving men as the breadwinners and women as homemakers. An institutional examination highlighting the attendant discourses to EEO may shed further light to the rationale of Sharia law with regard to employment equality for female Saudi citizens. As it stands clear that Sharia law has failed to recognize the consequences of its protectiveness in the employment of female Saudi citizens, namely limits to professional

opportunities in Saudi Arabia, it is crucial to identify solutions to achieving genuine EEO in said nation. The seemingly undented resolve of Sharia law advocates for the protection of female Saudi citizens against harassment at work therefore denies the growth of many professional opportunities for them. Consequently, it is therefore important to pose reconsiderations on the feasibility of Sharia law in light of the reforms necessary for benefiting female Saudi citizens in terms of equal employment opportunities, specifically on pay. A proposal presented by Syed is the transition towards an Islamic modernist model, which proposes the application of policies implemented in Islamic nations where income equality is stronger, particularly in Turkey and Indonesia. Such, according to Syed, provides a compromise to the need to preserve Islamic virtues amidst the perceived alienating effects of non-Islamic influences. In that way, a major revamp of Sharia law in Saudi Arabia would not stand as a necessary measure, instead gaining additional influences from Islamic nations wherein income equality is stronger.

A. Mobaraki and B. Soderfeldt expressly admitted the premise that gender inequality in Saudi Arabia poses risks to the well-being of female Saudi citizens. Such assertion proceeds with another daunting admission involving the lack of statistical data on inequality experienced by female Saudi citizens, yet it nevertheless touches on said issue on its perceived effects on economic development of Saudi Arabia. The goal of Saudi Arabia to expand towards diversification away from reliance to petroleum production and exportation is an aspect that requires further investigation on the status of the labour market in Saudi Arabia. Such therefore necessitates further

determination of disparities on the grounds of gender, which findings suggest is highly apparent in Saudi Arabia given its patriarchal system operating through Islam and its legal system. Mobaraki and Soderfeldt, having specified their analysis on the aspect of public health, emphasized that gender disparity in Saudi Arabia causes harmful effects to the health of female Saudi citizens. Lack of equality in the foregoing aspect leads to their declining potency as members of the labour market of Saudi Arabia. The need for able-bodied participants on the labour market of Saudi Arabia is crucial to making diversification a success for the nation, given that it is never easy to become successful in economic undertakings from scratch. Declining health among female Saudi citizens, mainly caused by domestic abuse, dependence of contraceptive use on the decision of husbands, and social restrictions preventing them from learning more about public health, further deprives them of opportunities to become useful members of the labour market of Saudi Arabia. Thus, reforms to gender disparity on the grounds of public health stands as a valid standpoint in cultivating better opportunities for female Saudi citizens to gain equal pay to that of their male counterparts, apart from the protective yet inherently restrictive Sharia law concerning the “ proper setting” of employment away from males to avoid harassment.

Jaime Kucinkas endeavoured on research involving the correlation between religiosity towards Islam and gender equality in Saudi Arabia, with the recognition that young people have a significant impact on the advancement of the rights of women in the chiefly patriarchal Middle East. Kucinkas identified in his research that key aspects of religiosity towards Islam affects

views on gender equality, subject to the trends of society. In the case of Saudi Arabia, substantial findings on the adverse effects of frequent mosque attendance and deep adherence to Islam adversely affects gender equality - a finding that duly reflects the Sharia law as a deeply patriarchal one despite its protective wording towards women in providing parameters to their right to work. Such apparently explains as well the prevalence of traditional Islamic views on women being homemakers first and foremost, which in turn inevitably prevents them from losing full focus on their already constrained professional undertakings. Moreover, the finding of Kucinskis underlining the fact that there is no positive effect to gender equality in Saudi Arabia coming from the religiosity of female Saudi citizens means to say that indeed, consistent orthodoxy towards Islamic adherence stand to provide no substantial benefits to the cause of gender equality in the nation. Such inspires a return to the argument supporting the overt protectiveness of Sharia law towards women, which reaches the extent of sheer restrictiveness. Requiring female Saudi citizens to practice their right to work based on proper moral grounds leading them against harassment from their male counterparts is constitutive of denying them of proper employment opportunities that would maximize their expertise and, in turn, benefit the diversification agenda of Saudi Arabia. Kucinskis, in that aspect, is correct in establishing Sharia law as an inherently detrimental force to movements supporting gender equality in Saudi Arabia, particularly with regard to pay. Sean Foley has taken on the case of women in the Gulf nations, as they sought to revolutionize their political and socioeconomic inclinations on gender equality. Such provides interesting perspectives when applied

against Sharia law in Saudi Arabia, given that the Gulf nations are predominantly Islamic. The emancipation of women in the Gulf nations, as noted by Foley, went on because of heavy government investments in education, costliness of employing expatriates, the war on terrorism waged by the United States (US) and the inadequacy of men in fulfilling key positions. In the case of Saudi Arabia, it is apparent that female Saudi citizens have gained the ability to become more enlightened through education with regard to the growing value of their place in society. The fact that high percentages of female Saudi clients constitute those that are educated in different fields. Regardless of that fact, however, the fact that Sharia law continues to impose supposed protections to the rights of women to work with regard to the threat of harassment further constrains opportunities available to them. In that case, it is important to take note of the consequential effects of the protective Sharia law to the economic well-being of not just the female Saudi citizens as they take their place in the labour market of Saudi Arabia, but also the well-being of the nation as a whole as it proceeds towards diversification. Gender disparities over pay emerges from the fact that female Saudi citizens have severely limited choices for their careers given the limitations set by Sharia law, which prohibits them from engaging in employment with men. Thus, the vision set in the research conducted by Foley - that of the integration of women within Islamic societies due to their increasing ascendancy in education and professional endeavours, may certainly take place in Saudi Arabia with the aid of instrumental modernist reforms to the protectiveness of the Sharia law in place therein.

Mustafa Ozbilgin, Jawad Syed, Faiza Ali and Dilek Torunoglu all contended in their research that it is important to consider the role of contextual distinctions first in planning to transpose approaches to EEO coming from Western nations such as those in Europe to Muslim majority countries (MMCs), given the prevalent role of Islam within the latter. MMCs require distinct attention as those involve various cultural differences provided by Islam, which is a predominantly patriarchal religion. In the case of Saudi Arabia, the Sharia law is the undisputed point of contention requiring special attention in cases where gender disparity is prevalent. The need to analyse the reasons behind the gender disparity in employment in Saudi Arabia within the context of Islam arises from the fact that the Sharia law is predominantly Islamic, such that sensitive implications might follow should approaches from Western nations incompatible to it find further application. In such a case, it is crucial to consider the fact that despite the relatively marginalized status of female Saudi citizens participating in the labour market of Saudi Arabia, it is nevertheless beginning to emancipate given that many of them have received university and graduate-level degrees in the face of growing concerns of the nation towards diversification. Such may ultimately end up as a trade-off between fulfilling diversification by forgoing the protectiveness of Sharia law and upholding said legal provision at the expense of brain drain and continued reliance on petroleum production and exportation. Considering the foregoing distinctions in the context of Saudi Arabia would therefore lead to robust solutions when placed under further analysis, compared to the instantaneous application of Western approaches. In considering context, developing EEO may proceed first through a

consideration of successful cases in other predominantly Islamic nations. Fatima Rahman discussed further the prospective links between gender equality in MMCs and the family in Sharia law. Given the centrality of women in the family as the traditional homemaker under Sharia law, such imposes a fine consideration in improving the status of women in MMCs with regard to equal opportunity to employment and compensation, as in the case of Saudi Arabia. The multifaceted aspect of the employment of women in Saudi Arabia involves the clash of patriarchal tradition with their growing consciousness over their abilities as obtained through education and professional training. Rahman boldly asserted in her research that Sharia law greatly impedes the progress of women in MMCs as they fight for their rights, particularly because of the fact that tradition provides expectations of submissive behaviour unto them. Allowing women from having a vast network of opportunities unhindered by the overtly protective Sharia law would certainly aid in their professional upbringing and increasing utility within the diversifying economy of Saudi Arabia. Diversification, as it currently stands, requires the exhaustion of all available talents in Saudi Arabia capable of establishing and operating new industries apart from petroleum production and exportation. Such therefore requires the talents of female Saudi citizens, many of them having gained university and graduate-level degrees designed to fulfil competitive job designations. Reforming or even stopping the implementation of Sharia law in the aspect of employment for female Saudi citizens would certainly serve as a clever and practical move that would benefit not only the participants in the labour market of Saudi Arabia, but also the economy of the nation as it spearheads towards

diversification apart from petroleum production and exportation. Rahman, given her research, is therefore sensible in pointing out the Sharia law as the weakest link to gender equality.

Pelin Sahin explored the legacy of the Arab Spring that first started in Tunisia with emphasis on the legacy of the women who fought and joined the struggle. Sahin cites the success of the Arab Spring in Tunisia as one that partly involves the empowerment of women – a considerable feat considering the fact that the nation is predominantly Islamic. The recognition that women have rights and freedoms duly affords Tunisia of promising reforms, despite its strong Islamic background that luckily did not find its way into Sharia law in the nation. In the case of the Arab Spring, it is important to consider the fact that it affords many people within Islamic milieus the opportunity to realize their rights and freedoms, particularly with the surmounting challenges raised against the traditionally authoritarian hold of the leaders in the Arab World. At this point, it may seem implausible to see Saudi Arabia breaking down into rebellion in the same vein as nations like Tunisia did during the Arab Spring, given that its petroleum-controlled economy continues to stabilize the entire nation. Yet, increasing calls for stronger reforms towards diversification has inevitably touched on the role of female Saudi citizens in the labour market of Saudi Arabia. Calls for diversification, which requires the participation of skilled members of the labour market subject to the fields in demand, has since touched on matters questioning the wisdom of the Sharia law with regard to constraining female Saudi citizens, with many of them having gained impressive educational credentials crucial to the skills demanded by diversification. Thus, should the

urgency for alternatives to the petroleum industry heighten drastically, it is possible for Saudi Arabia to succumb to revolutionary calls for gender equality, which in turn has notable political and socioeconomic considerations.

Sharia law has since come under attack for its highly unequal approach towards women, specifically within MMCs. In that sense, it is important to consider the premise that Sharia law, whereas protective of women against harassment, is actually constraining in terms of their freedom to pursue their professional undertakings. The fact that the role of men is highly considered in defining the role of women under Sharia law makes it a highly gender-unequal law, particularly because of the fact that it places so much authority unto male figures. Rebecca Maret, in her research presents such conflict within the context of Islamic arbitration conducted among Muslim communities in the United Kingdom (UK). The UK, with its established legacy of gender equality as indicated in their social policy, currently faces conflicts in the face of Sharia law arbitration among its Muslim communities. The touted insufficiency of legislative reforms to reforming the system set by the application of Sharia law unto Muslims in the UK presents the problem as a cultural one that requires further examination of the context involved. In the case of Saudi Arabia, it is impossible to legislate against the Sharia law alone in order to remove the protective yet harmful provision on preventing women from taking employment in places where there are men. Rather, cultural emancipation towards modernism without completely abandoning Islam stand as a favourable compromise that would benefit the place of

female Saudi citizens in the labour market of Saudi Arabia, which is currently moving towards diversification.

References

- AlMunajjed M., Women's Employment in Saudi Arabia A Major Challenge (BC 2010)
- Foley S., All I Want Is Equality With Girls: Gender And Social Change In The Twenty-First Century Gulf (MERIA 2010)
- Kucinskas J., A Research Note on Islam and Gender Egalitarianism: An Examination of Egyptian and Saudi Arabian Youth Attitudes (JSSR 2010)
- Maret R., Mind The Gap: The Equality Bill And Sharia Arbitration In The United Kingdom' (BCICLR 2013)
- Mobaraki A. and Soderfeldt B., Gender Inequity In Saudi Arabia And Its Role In Public Health (EMHJ 2010)
- Ozbilgin M., Syed J., Ali F. and Torunoglu D., International Transfer of Policies and Practices of Gender Equality in Employment to and among Muslim Majority Countries (GWO 2010)
- Rahman F., Gender Equality in Muslim-Majority States and Shari'a Family Law: Is There a Link? (AJPS 2012)
- Sahin P., Women's Liberties and Gender Equality in Tunisia: The Asthma of the Arab Spring? (TPQ 2013)
- Sheikh K., El-setouhy M., Yagoub U., Alsanosy R. and Ahmed Z., Khat Chewing And Health Related Quality Of Life: Cross-Sectional Study In Jazan Region, Kingdom Of Saudi Arabia (HQLO 2014)

Syed J., A Context-Specific Perspective Of Equal Employment Opportunity In Islamic Societies (APJM 2008)